

Executive Summary – Enforcement Matter – Case No. 45660
Ellwood Texas Forge Navasota, LLC
RN102343563
Docket No. 2012-2607-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Ellwood Texas Forge Navasota, located adjacent to the west side of the Texas and New Orleans Railroad, with an entrance roadway off State Highway 508, approximately one mile south of the intersection of State Highway 508 and Farm-to-Market Road 379, and approximately three miles south of Navasota, Grimes County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 21, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,800

Amount Deferred for Expedited Settlement: \$1,760

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,040

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Docket No. 2012-2607-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 6, 2012 and December 11, 2012

Date(s) of NOE(s): November 1, 2012

Violation Information

1. Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004073000, prior to the July 1, 2012 expiration date and continued to operate and discharge wastewater without authorization [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2)].

2. Failed to comply with the permitted effluent limitations. Specifically, for the monitoring period ending January 31, 2012, Respondent reported a total suspended solids ("TSS") daily maximum concentration of 50 milligrams per liter ("mg/L") (permit limit of 45 mg/L) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004073000 Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By July 6, 2012, submitted a permit application to discharge wastewater; and
- b. By November 30, 2012, purchased and installed aerators and an ultrasonic algae reduction system to address TSS issues and returned to compliance with the permitted effluent limits of expired TPDES Permit No. WQ0004073000.

Technical Requirements:

The Order will require Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
- b. Immediately, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0004073000; and

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c. Within 300 days, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division,
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Valliappan Senthilnathan, Vice President / General Manager, Ellwood
Texas Forge Navasota, LLC, P.O. Box 1030, Navasota, Texas 77868
Mark S. Cianci, President, Ellwood Texas Forge Navasota, LLC, P.O. Box 1030,
Navasota, Texas 77868
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Dec-2012	Screening	21-Dec-2012	EPA Due	
	PCW	12-Mar-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Ellwood Texas Forge Navasota, LLC		
Reg. Ent. Ref. No.	RN102343563		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45660	No. of Violations	2
Docket No.	2012-2607-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$437
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Notes	Enhancement for two NOVs with same/similar violations. Reduction for three notices of intent to conduct an audit and one disclosure of violation.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,486
Approx. Cost of Compliance	\$24,054

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,062
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-2.9%	Adjustment	-\$262
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommend reduction to prevent double-enhancement for violations that were self-reported.
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Final Penalty Amount	\$8,800
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,800
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,760
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$7,040
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Screening Date 21-Dec-2012

Docket No. 2012-2607-IWD-E

PCW

Respondent Ellwood Texas Forge Navasota, LLC

Policy Revision 3 (September 2011)

Case ID No. 45660

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102343563

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with same/similar violations. Reduction for three notices of intent to conduct an audit and one disclosure of violation.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 21-Dec-2012

Docket No. 2012-2607-IWD-E

PCW

Respondent Ellwood Texas Forge Navasota, LLC

Policy Revision 3 (September 2011)

Case ID No. 45660

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102343563

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)

Violation Description Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004073000, prior to the July 1, 2012 expiration date and continued to operate and discharge wastewater without authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 6

173 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Six monthly events are recommended from the permit expiration date (July 1, 2012) to the screening date (December 21, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$667

Violation Final Penalty Total \$7,647

This violation Final Assessed Penalty (adjusted for limits) \$7,647

Economic Benefit Worksheet

Respondent Ellwood Texas Forge Navasota, LLC
Case ID No. 45660
Reg. Ent. Reference No. RN102343563
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	1-Jul-2012	31-Oct-2013	1.33	\$667	n/a	\$667
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$667

Screening Date 21-Dec-2012

Docket No. 2012-2607-IWD-E

PCW

Respondent Ellwood Texas Forge Navasota, LLC

Policy Revision 3 (September 2011)

Case ID No. 45660

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102343563

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004073000 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review conducted on December 11, 2012. Specifically, for the monitoring period ending January 31, 2012, the Respondent reported a total suspended solids daily maximum concentration of 50 milligrams per liter ("mg/L") (permit limit of 45 mg/L).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$125

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieved compliance by November 30, 2012.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$819

Violation Final Penalty Total \$1,153

This violation Final Assessed Penalty (adjusted for limits) \$1,153

Economic Benefit Worksheet

Respondent Ellwood Texas Forge Navasota, LLC
 Case ID No. 45660
 Reg. Ent. Reference No. RN102343563
 Media Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$14,054	31-Jan-2012	30-Nov-2012	0.83	\$39	\$780	\$819
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to purchase and install aerators and an ultrasonic algae reduction system to address the total suspended solids issue. Date required is the initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$14,054

TOTAL

\$819



Compliance History Report

PUBLISHED Compliance History Report for CN603434135, RN102343563, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603434135, Ellwood Texas Forge Navasota, LLC	Classification:	SATISFACTORY	Rating:	0.30
Regulated Entity:	RN102343563, ELLWOOD TEXAS FORGE NAVASOTA	Classification:	SATISFACTORY	Rating:	0.41
Complexity Points:	11	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	ADJACENT TO THE WEST SIDE OF THE TEXAS AND NEW ORLEANS RR, WITH AN ENTRANCE ROADWAY OFF STATE HWY 508, APPROX ONE M S OF THE INTX OF STATE HWY 508 AND FM 379, AND APPROX THREE M S OF NAVASOTA, GRIMES COUNTY, TX				
TCEQ Region:	REGION 09 - WACO				
ID Number(s):					
WASTEWATER EPA ID TX0133728	WASTEWATER PERMIT WQ0004999000				
WASTEWATER EPA ID TX0084034	STORMWATER PERMIT TXR05Y152				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	January 22, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	January 22, 2008 to January 22, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Jennifer Graves		Phone:	(956) 430-6023	

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
Interstate Southwest, Ltd., OWNER, 1/1/1800 to 9/2/2008
Interstate Southwest Forge Company, OWNER, 10/7/1986 to 9/1/2008
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 24, 2008	(675254)
Item 2	March 20, 2008	(675253)
Item 3	April 22, 2008	(693567)
Item 4	May 14, 2008	(693568)
Item 5	June 12, 2008	(714862)
Item 6	August 18, 2008	(714863)
Item 7	November 17, 2008	(730748)

Item 8	December 16, 2008	(730749)
Item 9	February 20, 2009	(753993)
Item 10	March 20, 2009	(771333)
Item 11	April 21, 2009	(771334)
Item 12	May 15, 2009	(744452)
Item 13	June 22, 2009	(813974)
Item 14	July 21, 2009	(813976)
Item 15	July 23, 2009	(813975)
Item 16	August 10, 2009	(744463)
Item 17	October 16, 2009	(813978)
Item 18	November 23, 2009	(813979)
Item 19	December 22, 2009	(813980)
Item 20	January 20, 2010	(813981)
Item 21	February 16, 2010	(813973)
Item 22	March 22, 2010	(834131)
Item 23	April 14, 2010	(834132)
Item 24	May 21, 2010	(834133)
Item 25	June 17, 2010	(847268)
Item 26	August 23, 2010	(868104)
Item 27	September 17, 2010	(875033)
Item 28	November 22, 2010	(889059)
Item 29	December 20, 2010	(897432)
Item 30	February 22, 2011	(910241)
Item 31	March 21, 2011	(917453)
Item 32	April 13, 2011	(928418)
Item 33	July 14, 2011	(953814)
Item 34	August 16, 2011	(960419)
Item 35	September 26, 2011	(966478)
Item 36	November 21, 2011	(978634)
Item 37	December 27, 2011	(985458)
Item 38	January 23, 2012	(991744)
Item 39	March 22, 2012	(1004616)
Item 40	April 23, 2012	(1011194)
Item 41	May 21, 2012	(1017549)
Item 42	June 28, 2012	(1025346)
Item 43	July 23, 2012	(1032686)
Item 44	August 20, 2012	(1039112)
Item 45	September 19, 2012	(1048063)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 01/31/2012 (999089)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 07/24/2012 (1014710)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements, Pg. 9 No.1 PERMIT
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly
operated and maintained.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(d)
Monit. and Rpt. Reqs., No. 2a Pg. 5 PERMIT
Description: Failure to install a staff gauge at the primary flow measuring device.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effl. Lmt. and Monit. Reqs., No. 1 Pg. 2 PERMIT

Published Compliance History Report for CN603434135, RN102343563, Rating Year 2012 which includes Compliance History (CH) components from January 22, 2008, through January 22, 2013.

Description: Failure to maintain the effluent within permitted effluent limitations.

F. Environmental audits:

Notice of Intent Date: 05/28/2008 (684011)

Disclosure Date: 11/21/2008

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(19)

30 TAC Chapter 319, SubChapter A 319.12

30 TAC Chapter 319, SubChapter A 319.4

Rqmt Prov: PA TX0084034

Description: Failure to collect composite samples for TSS, CBOD, COD and Ammonia Nitrogen in accordance with permit monitoring and reporting requirements. Specifically, grab samples were being collected and reported on DMRs.

Viol. Classification: Moderate

Rqmt Prov: PERMIT TX0084034

Description: Failure to maintain records of personal training, for annual calibration of the flow meter, calibration of the ph/temperature probe, a copy of the preventative maintenance log in the permit file, a record demonstrating an adequate supply of spare parts for monitoring is maintained on site.

Notice of Intent Date: 05/22/2009 (793569)

No DOV Associated

Notice of Intent Date: 02/02/2010 (793573)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ELLWOOD TEXAS FORGE
NAVASOTA, LLC
RN102343563**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-2607-IWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ellwood Texas Forge Navasota, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located adjacent to the west side of the Texas and New Orleans Railroad, with an entrance roadway off State Highway 508, approximately one mile south of the intersection of State Highway 508 and Farm-to-Market Road 379, and approximately three miles south of Navasota, Grimes County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 6, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Eight Hundred Dollars (\$8,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Forty Dollars (\$7,040) of the administrative penalty and One Thousand Seven Hundred Sixty Dollars (\$1,760) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent:
 - a. By July 6, 2012, submitted a permit application to discharge wastewater; and
 - b. By November 30, 2012, purchased and installed aerators and an ultrasonic algae reduction system to address total suspended solids ("TSS") issues and returned to compliance with the permitted effluent limits of expired Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004073000.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), as documented during an investigation conducted on September 6, 2012. Specifically, the Respondent did not renew TPDES Permit No. WQ0004073000, prior to the July 1, 2012 expiration date and continued to operate and discharge wastewater without authorization.

2. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004073000 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 11, 2012. Specifically, for the monitoring period ending January 31, 2012, the Respondent reported a TSS daily maximum concentration of 50 mg/L (permit limit of 45 mg/L).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ellwood Texas Forge Navasota, LLC, Docket No. 2012-2607-IWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
 - b. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0004073000; and
 - c. Within 300 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

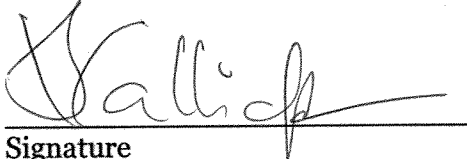
7/11/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

04/11/13
Date

VALUAPPAN SENTHILNATHAN
Name (Printed or typed)
Authorized Representative of
Ellwood Texas Forge Navasota, LLC

VP / GENERAL MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.